

Matter Of \_\_\_\_\_

\_\_\_\_\_, am the attending physician for \_\_\_\_\_, petition the superior court for the County of \_\_\_\_\_ for an evidentiary hearing three judicial days to determine the capacity of the aforesaid patient to give written informed consent<sup>1</sup> for live treatment.<sup>2</sup>

- ☐ I believe this patient does not have capacity to give written informed consent.<sup>3</sup>
- ☐ There has been an allegation by the patient's attorney that he/she believes the patient does not have capacity to give written informed consent.
- ☐ Patient is voluntary and I believe has capacity to give informed consent, but there has not been verification by an eligible psychiatrist or neurologist that the patient has capacity to give written informed consent.<sup>4</sup>

entered and signed adequate documentation in the patient's treatment record of the reasons for the procedure, reasonable treatment modalities have been carefully considered, and that convulsive treatment is definitely needed and is the least drastic alternative available for this patient at this time.<sup>5</sup>

Review of the patient's treatment record was conducted by a committee of two physicians, at least one of whom personally examined the patient. One of these physicians was appointed by the facility<sup>6</sup> and one was appointed by the mental health director. Both were board-certified or board-eligible psychiatrists or neurologists. Both agreed with the determinations (see preceding paragraph) and documented and signed their agreement in the patient's treatment record.<sup>7</sup>

- ☐ The patient's conservator or guardian, or parent if the patient is an unemancipated minor 15 years of age or below, has been notified and given the oral explanation of the information required by Welfare and Institutions Code 5326.2.
- ☐ The patient has no conservator or guardian, and is not an unemancipated minor 15 years of age or below.<sup>8</sup>
- ☐ A responsible relative of the patient's choosing has been notified and given an oral explanation of the information required by Welfare and Institutions Code Section 5326.2.<sup>9</sup>
- ☐ The patient chose not to designate a relative to be informed of the treatment.<sup>9</sup>
- ☐ The relative(s) designated by the patient was/were unavailable.<sup>9</sup>
- ☐ Patient expresses a desire for the recommended treatment.
- ☐ Patient does not desire the recommended treatment.
- ☐ Patient's wishes in regard to the recommended treatment cannot be ascertained because
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

# NOTICE FOR EVIDENTIARY HEARING

Confidential Patient/Client Information  
See Welfare & Institutions Code Section 5328

(TWO-SIDED DOCUMENT)

Additional Comments (if any)

Because an issue has arisen as to the patient's capacity to give written informed consent, the recommended treatment cannot be commenced until an evidentiary hearing is held and a determination is made by the court as to the patient's capacity to give written informed consent.<sup>10</sup>

Therefore, petitioner prays that proceedings be conducted pursuant to Subdivision (f) of Section 5326.7 of the Welfare and Institutions Code.

☐ To my knowledge the patient is not represented by an attorney and needs one appointed.<sup>11</sup>

☐ To my knowledge the patient is represented by:

Attorney's Name

Telephone Number

Street Address

City, State Zip Code

Attorney's Name

Telephone Number

Attorney's Street Address, City State Zip Code

Home Address and Telephone Number (if known)

Relative's Name (if applicable), Address and Telephone Number

Conservator, Guardian, or (if patient is an unemancipated minor) Parent, as appropriate, Address and Telephone Number

*I, under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.*

Signature

I, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_, California.

#### CITATIONS

Welfare and Institutions Code Section 5326.5.  
9 California Administrative Code Section 840.

Welfare and Institutions Code Section 532.5 (f).  
9 California Administrative Code Section 836 (a).

#### CITATIONS

Welfare and Institutions Code Section 5326.7 (f).  
Welfare and Institutions Code Section 5326.75 (b)(c).

Welfare and Institutions Code Section 5326.7 (a).

Welfare and Institutions Code Section 5326.7 (b).

Welfare and Institutions Code Section 5326.2.  
Welfare and Institutions Code Section 5326.7 (c).  
9 California Administrative Code Section 845.

6. 9 California Administrative Code Section 836.2.

9. Welfare and Institutions Code Section 5326.2.  
Welfare and Institutions Code Section 5326.7 (c).  
9 California Administrative Code Section 846.

10. Welfare and Institutions Code Section 5326.7 (f).

11. Welfare and Institutions Code Section 5326.7 (e)(f).  
The patient may also need an attorney appointed if the court deems the present attorney has a conflict.

FORM FOR PROMULGATION OF THIS FORM

9 California Administrative Code Section 844 (c)